

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



F13b

Filed: 12/18/2017
49th Working Day: 02/28/2018
Staff: D. Truong-LB
Staff Report: 01/26/2018
Hearing Date: 02/09/2018

STAFF REPORT: APPEAL –NO SUBSTANTIAL ISSUE

Appeal No.: A-5-VEN-17-0072

Applicant: NYE, LLC. Attn: Nir Paz

Agent: Steve Kaplan

Local Government: City of Los Angeles

Local Decision: Approval with Conditions

Appellants: Robin Rudisill, Richard Stanger, Courtney Pauson, Lisa Taub, Sandy Eiges, Miriam Koral, Oliver Midy, Georjean Garvey, Charmaine Soo, Tony Orlando, Susan Bernatz, Janet Shaw, Leon Pogoler, Sandra Wilson, Lisa Farr Johnstone, Marianne Pogoler, Ray Wattson, Janet Lent, Joan Wrede, Lisa Masse, Leighton Tsai, Rene Symonds, Beatrice Drane, Dan McNay, Patricia Riley-Oppel, Brendan Gibbons, Pamela Harbour, Jude Epstein, Judy Esposito, Jason Szabo, Ted Tannenbaum, Patricia LeVigne, Tansy Myer, Betsey Kaufman, Victoria Frederick, Stacy Fong, Edward Guiliani, Kennalee Mattson, Jacquie & Gary Doraine, Clayton Ronshine, Cristian Wrede, Inta Rinkenberger, Sarah Shoup, Sarita Diamond, Brian Lawson, Kip Wood, Kevin Balluff, Terry Sidell, Linda Martinek, Nancy Joseph, Luis Perez, James McCullagh, Fritzi Horstman, Sheryl Aubrey, Victoria Sando, Mine Friedler, Eli Friedler, Charles Bornskin, Tina Hale, Carole Wood, Anne Mullins, Charlotte Pestana, Frank DeFurio, Tom Johnstone, Robert Mitchell

Location: 2412 Clement Ave, Venice, City of Los Angeles, Los Angeles County (APN: 4228012019)

Project Description: Appeal of City of Los Angeles Local Coastal Development Permit No. DIR-2016-2206 (CDP)(MEL) for the demolition of a 1-story single-family dwelling, and the construction of a 2-story, 25-foot high, approximately 3,001 sq. ft. single-family dwelling with an attached 2-car garage and roof deck.

Staff Recommendation: NO SUBSTANTIAL ISSUE

IMPORTANT NOTE: This is a substantial issue only hearing. Testimony will be taken only on the question of whether the appeal raises a substantial issue. Generally and at the discretion of the Chair, testimony is limited to 3 minutes total per side. Please plan your testimony accordingly. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify. Others may submit comments in writing. If the Commission determines that the appeal does raise a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which it will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeal has been filed. The motion to carry out the staff recommendation is on page 4.

The primary grounds raised by the appellants for this project are that the proposed project does not conform to the character of the surrounding community and hence, is not consistent with Coastal Act Sections 30250, 30251, 30253(e), and the Policies of the certified Venice LUP. The appellants further assert that **1)** the project raises issues of statewide significance because Venice is a unique coastal community making it a significant coastal resource to be protected and, as approved by the City, the project is not compatible with the community character of the area; **2)** the City misinterprets Venice LUP policies and failed to evaluate compatibility in regards to density, character, and scale of existing development, and **3)** the project will prejudice the City's ability to prepare an LCP in conformity with Chapter 3 policies of the Coastal Act because the project will set an adverse precedent against future development.

Staff has analyzed the appellants' contentions against the City's actions and concluded that **1)** the density, character and scale of the City-approved project is visually compatible with the character of the surrounding community, **2)** the City-approved project is consistent with the policies set forth in the Venice LUP and the Coastal Act, and **3)** as approved by the City, the development will not prejudice the City's ability to prepare a certified LCP in the future.

Therefore, for the reasons stated above, the appeal does not raise a substantial issue as to the City-approved development's compatibility with community character in the Southeast Venice subarea, and is in conformity with Sections 30250, 30251 and 30253(e) of the Coastal Act and the policies in the Venice certified-LUP.

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EXHIBITS

Exhibit 1 – Vicinity Map

Exhibit 2 – Site Plan

Exhibit 3 – Appeal, 12/18/17

Exhibit 4 – City Determination Letter, 7/7/17

Exhibit 5 – WLAAPC Determination Letter, 11/21/17

Exhibit 6 – Letters Supporting Appeal from Robin Rudisill and Richard Stanger, 1/10/18

Exhibit 7 – Letters Supporting Project from Agent Steve Kaplan, 1/11/18

Exhibit 8 – WLAAPC Hearing, 11/15/2017 provided by appellant Robin Rudisill

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission determine that Appeal No. A-5-VEN-17-0072 raises **NO Substantial Issue** with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act.*

Staff recommends a **YES** vote. Passage of this motion will result a finding of No Substantial Issues and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

*The Commission hereby finds that **Appeal No. A-5-VEN-17-0072** presents **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under §30602 of the Coastal Act regarding consistency with Chapter 3 policies of the Coastal Act.*

II. APPELLANTS' CONTENTIONS

On December 18, 2017, an appeal was filed for City-issued Coastal Development Permit No. DIR-2016-2206 (CDP)(MEL) by Richard Stanger, Robin Rudisill and Interested Parties ([Exhibit 3](#)). The appellants contend that the City has misinterpreted Coastal Act and Venice Land Use Plan (LUP) policies and did not properly analyze the proposed project compatibility with the character of the surrounding neighborhood. The appellants further contend that because the area is designated Residential Low by the LUP, the City should not approve projects which maximize the allowable height and floor area set forth in the certified Venice LUP. The appellants question the adequacy of the City's findings in regards to Coastal Act Policies 30250, 30251, and 30253(e) and Venice LUP Policies, arguing that the proposed project significantly takes away from the character of the community by allowing out-of-scale development which maximizes height and floor area. In addition, the appellants contend that the project will set a precedent that will undermine Venice as a special coastal community.

On January 10, 2018, two of the appellants met with Commission staff to discuss contentions similar to the appeal made on December 18, 2017 ([Exhibit 6](#)). Exhibit 6 shows the project's alleged incompatibility based on floor area ratio, residential floor area compared to lot size, and other architectural features. On January 16, 2018, one appellant, Robin Rudisill, sent staff the recorded hearing of the West Los Angeles Area Planning Commission (WLAAPC) appeal that was held November 15, 2017 ([Exhibit 8](#)). Ms. Rudisill contends that the WLAAPC has erred in its interpretation of the Coastal Act and Venice LUP, leading to the rejection of the appeal and approval and adoption of the City Director's local coastal development permit. The transcript of the hearing is provided by the agent under page 162 of Exhibit 7 ([Exhibit 7](#)).

III. LOCAL GOVERNMENT ACTION

On May 3, 2017, the City issued a Mello Act Determination for 2412 Clement Avenue concluding that no affordable units exist on site. In addition, the project was determined to be categorically exempt in regards to CEQA (ENV-2016-2205-CE).

On June 22, 2016, the City of Los Angeles Planning Department received an application for a “1707 sq. ft. 2-story addition to a single-family dwelling with existing 388 sq. ft. detached garage”. On July 7, 2017, the City of Los Angeles Director of Planning approved a local coastal development permit allowing the demolition and construction of a 3,001 sq. ft. single-family residence in Southeast Venice ([Exhibit 4](#)). The determination was appealed to the West Los Angeles Area Planning Commission (WLAAPC), which held three hearings related to the project on September 6, October 4, and November 15, 2017. Subsequent to the WLAAPC hearing held on October 4, the applicant revised plans by reducing the building area by approximately 41 sq. ft., for a total area of 2,960 sq. ft., and stepping back the second story for a more articulated frontage. The City accepted the revised plans on November 6, 2017 as being in conformance with previously approved plans. The revised plans include the addition of a front balcony on the second floor with a depth of approximately 5.5 feet, the reduction of the second floor bedroom area to accommodate the proposed balcony, and change in the balcony railing material from solid parapet to glass. On November 15, 2017, the WLAAPC denied the appeal and adopted the City Director’s determination approving the proposed two-story single-family residence, including the minor revision to the plans described above ([Exhibit 5](#)).

The Commission’s South Coast District Office received the City’s Notice of Final Action on November 28, 2017, and the Commission’s twenty working-day appeal period was established. On December 18, 2017, the appeal was filed by the interested parties for the City-approved Local CDP. The appeal was filed within the twenty working-day period and is valid. On December 21, 2017, the Commission staff notified the City and the applicant of the appeal. No other appeals were received prior to the end of the appeal period on December 27, 2017.

IV. APPEAL PROCEDURES

Section 30600(b) of the Coastal Act provides that prior to certification of its LCP, a local jurisdiction may, with respect to development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval or denial of a coastal development permit. Pursuant to this provision, the City of Los Angeles developed a permit program in 1978 to exercise its option to issue local coastal development permits. Sections 13301-13325 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued coastal development permits. Section 30602 of the Coastal Act allows *any* action by a local government on a coastal development permit application evaluated under Section 30600(b) to be appealed to the Commission. The standard of review for such an appeal is the Chapter 3 policies of the Coastal Act. [Cal. Pub. Res. Code §§ 30200 and 30604.]

After a final local action on a local CDP application, the Coastal Commission must be notified within five days of the decision. After receipt of such a notice, which contains all the required

information, a twenty working-day appeal period begins during which any person, including the applicant, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission. [Cal. Pub. Res. Code § 30602.] As provided under section 13318 of Title 14 of the California Code of Regulations, the appellant must conform to the procedures for filing an appeal as required under section 13111 of Title 14 of the California Code of Regulations, including the specific grounds for appeal and a summary of the significant question raised by the appeal.

The action currently before the Commission is to find whether there is a “substantial issue” or “no substantial issue” raised by the appeal of the local approval of the proposed project. Sections 30621 and 30625(b)(1) of the Coastal Act require a *de novo* hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

Commission staff recommends a finding of **no substantial issue**. If the Commission decides that the appellant’s contentions raise no substantial issue as to conformity with Chapter 3 of the Coastal Act, the action of the local government becomes final. Alternatively, if the Commission finds that a substantial issue exists with respect to the conformity of the action of the local government with the Chapter 3 policies of the Coastal Act, the local CDP is voided and the Commission typically continues the public hearing to a later date in order to review the coastal development permit as a *de novo* matter. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission regulations specifies that *de novo* actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission’s regulations.

If there is no motion from the Commission to find no substantial issue, it will be presumed that the appeal raises a substantial issue and the Commission will schedule the *de novo* phase of the public hearing on the merits of the application at a future Commission meeting. A *de novo* public hearing on the merits of the application uses the Chapter 3 policies of the Coastal Act. The certified Venice LUP is used as guidance. Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

If the Commission decides to hear arguments and vote on the substantial issue question, those who are qualified to testify at the hearing, as provided by Section 13117 of Title 14 of the California Code of Regulation, will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that the grounds for the appeal raise no substantial issue.

V. SINGLE/ DUAL PERMIT JURISDICTION AREAS

Section 30601 of the Coastal Act provides details regarding the geographic areas where applicants must also obtain a coastal development permit from the Commission in addition to obtaining a local coastal development permit from the City. These areas are considered Dual Permit Jurisdiction areas. Coastal zone areas outside of the Dual Permit Jurisdiction areas are considered Single Permit Jurisdiction areas. Pursuant to Section 30600(b) of the Coastal Act, the City of Los

Angeles has been granted the authority to approve or deny coastal development permits in both jurisdictions, but all of the City's actions are appealable to the Commission. The proposed project site is located within the Single Permit Jurisdiction Area.

VI. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION & DESCRIPTION

The subject site is located 0.56 miles from the beach and 0.19 miles from the Venice Canals in the Southeast Venice subarea. The site is designated as Single-Family Dwelling – Low Density by the certified Venice LUP, which allows one unit per lot ([Exhibit 1](#)). A mix of one- to two-story single-family dwellings with varied/ flat rooflines characterize the neighborhood on Clement Avenue. The 3,600 sq. ft. lot is currently developed with a one-story, 700 sq. ft., single-family residence with detached garage. The existing structures were built in 1950; however, according to City findings, no historic resources or potentially historic structures have been identified on site.

The project, according to the City-approved plans dated November 6, 2017 ([Exhibit 2](#)), is for the demolition of the existing structures and construction of a two-story, 25-foot high, 2,960 sq. ft. single-family dwelling with an attached 336 sq. ft. two-car garage and approximately 9-foot high, 100 sq. ft. rooftop stairway enclosure to provide access to the 922 sq. ft. roof deck. Three on-site parking spaces (two covered and one uncovered) will be provided and accessed through the rear alley with no proposed curb cuts on Clement Avenue. The front yard setback is 17 feet, the rear yard setback is 15 feet, and the side yard setbacks are 5 feet from the property lines. The City-approved project observes all of the required setbacks, height, and yard requirements in the City's Municipal Code and the certified Venice LUP. In addition, the agent provided additional documents regarding the project's compatibility with community character ([Exhibit 7](#)).

B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUES ANALYSIS

Section 30625(b)(1) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with Chapter 3 of the Coastal Act. As described above, in the case of appeals of coastal exemptions (Section 30625(a) of the Coastal Act), this standard requires the Commission to determine if there is factual and legal support for the local government's decision that the development can be authorized without a coastal development permit pursuant to Section 30610 of the Coastal Act and Section 13250 of the California Code of Regulations.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulation simply indicates that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." In previous decisions on appeals, the Commission had been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;

4. The precedential value of the local government's decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

Staff is recommending that the Commission find that **no substantial issue exists** with respect to whether the local government action conforms to Section 30610 of the Coastal Act and Section 13250 of the California Code of Regulations for the reasons set forth below.

C. SUBSTANTIAL ISSUE ANALYSIS

Coastal Act Section 30250 Location; existing developed area states, in part:

New residential... except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects... on coastal resources.

Coastal Act Section 30251 Scenic and visual qualities states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Coastal Act Section 30253(e) Minimization of Adverse Impacts, states:

New development shall where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

The appellants contend that the proposed project does not conform to the character of the surrounding community and hence, is not consistent with Coastal Act Sections 30250, 30251, and 30253(e). Section 30250 of the Coastal Act requires new development to “*be located within, contiguous with, or in close proximity to, existing developed areas.*” Sections 30251 and 30253(e) of the Coastal Act state that such scenic areas and special communities shall be protected. These sections of the Coastal Act require permitted development to be visually compatible with the character of surrounding areas and require protection of communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

The Venice community – including the beach, the boardwalk, the canals, and the eclectic architectural styles of the neighborhoods – is one of the most popular visitor destinations in California. According to the Venice Chamber of Commerce, 16 million people visit annually, drawn by the unique characteristics of the area¹.

When the Commission certified the Venice LUP in 2001, it considered the potential impacts that development could have on community character and adopted policies and specific residential building standards to ensure development was designed with pedestrian scale and compatibility with surrounding development. Given the specific conditions surrounding the subject site and the diverse development pattern of Venice, it is appropriate to use the certified LUP policies as guidance in determining whether or not the project is consistent with sections 30250, 30251, and 30253(e) of the Coastal Act.

In this case, the certified Venice LUP describes the priority expressed in the Coastal Act for preserving the nature and character of unique coastal residential communities and neighborhoods:

Venice Certified Land Use Plan Policy I.A.1. Residential Development, states, in part:

The maximum densities, building heights and bulks for residential development in the Venice Coastal Zone shall be defined by the Land Use Plan Maps and Height Exhibits (Exhibits 9 through 16), and the corresponding land use categories and the development standards as described in this LUP. Refer to Policies II.C.10 for development standards for walk streets and to Policies II.A.3 and 4 for parking requirements.

Venice Certified Land Use Plan Policy I. A. 2. Preserve Stable Single-Family Residential Neighborhoods, states:

Ensure that the character and scale of existing single-family neighborhoods is maintained and allow for infill development provided that it is compatible with and maintains the density, character and scale of the existing development. A second residential unit or an accessory living quarter may be permitted on lots designated for single-family residence land uses, provided that the lot has a minimum lot area of 4,600 square feet in the Venice Canals subarea, or 10,000 square feet in the Silver Strand, Southeast Venice, or Oxford Triangle subareas, and all units conform to the height limit, parking requirements, and other development standards applicable to the site.

Venice Certified Land Use Plan Policy I. A. 3. Single-Family Dwelling - Low Density, states:

Accommodate the development of single-family dwelling units in areas designated as “Single-family Residential” and “Low Density” on the Venice Coastal Land Use Plan. (Exhibits 9 through 12). Such development shall comply with the density and development standards set forth in this LUP.

Southeast Venice and the Oxford Triangle. Use: Single-family dwelling / one unit per lot Density: One unit per 5,000 square feet of lot area

¹ Venice Chamber of Commerce website. <http://venicechamber.net/visitors/about-venice/>.

Yards: Yards shall be required in order to accommodate the need for fire safety, open space, permeable land area for on-site percolation of stormwater, and on-site recreation consistent with the existing scale and character of the neighborhood.

Height: Not to exceed 25 feet for buildings with flat roofs or 30 feet for buildings with a varied or stepped back roof line. (See LUP Policy I.A.1 and LUP Height Exhibits 13-16).

Venice Certified Land Use Policy I. E. 1. General, states:

Venice's unique social and architectural diversity should be protected as a Special Coastal Community pursuant to Chapter 3 of the California Coastal Act of 1976.

Venice Certified Land Use Plan Policy I. E. 2. Scale, states:

New development within the Venice Coastal Zone shall respect the scale and character of the community development. Buildings which are of a scale compatible with the community (with respect to bulk, height, buffer and setback) shall be encouraged. All new development and renovations should respect the scale, massing, and landscape of existing residential neighborhoods. Roof access structures shall be limited to the minimum size necessary to reduce visual impacts while providing access for fire safety. In visually sensitive areas, roof access structures shall be set back from public recreation areas, public walkways, and all water areas so that the roof access structure does not result in a visible increase in bulk or height of the roof line as seen from a public recreation area, public walkway, or water area. No roof access structure shall exceed the height limit by more than ten (10') feet. Roof deck enclosures (e.g. railings and parapet walls) shall not exceed the height limit by more than 42 inches and shall be constructed of railings or transparent materials. Notwithstanding other policies of this LUP, chimneys, exhaust ducts, ventilation shafts and other similar devices essential for building function may exceed the specified height limit in a residential zone by five feet.

In regards to roof access structures (rooftop stairway enclosures), LUP Policy I.A.1 states:

a. *Roof Access Structures. Building heights and bulks shall be controlled to preserve the nature and character of existing residential neighborhoods. Residential structures may have an enclosed stairway (roof access structure) to provide access to a roof provided that:*

i. The roof access structure shall not exceed the specified flat roof height limit by more than 10 feet;

ii. The roof access structure shall be designed and oriented so as to reduce its visibility from adjacent public walkways and recreation areas;

iii. The area within the outside walls of the roof access structure shall be minimized and shall not exceed 100 square feet in area as measured from the outside walls; and, as measured from the outside walls; and,

Notwithstanding other policies of this LUP, chimneys, exhaust ducts, ventilation shafts and other similar devices essential for building function may exceed the specified height limit in a residential zone by five feet.

Venice Certified Land Use Policy I. E. 3. Architecture, states:

Varied styles of architecture are encouraged with building facades which incorporate varied planes and textures while maintaining the neighborhood scale and massing.

The City correctly reviewed the proposed front yard setback and building height for compatibility with the scale of the surrounding development and visual impacts to pedestrians. The front yard setback is 17 feet. The proposed structure is two-stories with a 25-foot high roofline, which is similar to several other houses on the street, and five feet under the maximum height limit. The City's findings support the project's conformity to the character of the surrounding area utilizing Venice LUP policies and are consistent with the Coastal Act.

The appellants contend that the City misinterprets Venice LUP policies and failed to evaluate compatibility in regards to density, character, and scale of existing development. In addition, the appellants further contend that because the property is located in a Residential Low designated area, homes should not be built to the maximum allowable limits. The property's land use designation relates to the number of units that can be permitted on the lot, and it does not require that structures be lower in height than the height limit. In this case, however, the project is not designed to the maximum allowable limits because it is five feet under the maximum height limit of 30 feet. In any event, because the proposed project is for construction of a single-family residence, the City appropriately found it to be consistent with the density requirements of one unit per lot pursuant to Policy I.A.3.

In order to determine whether or not a proposed project is compatible with community character, the Commission looks at all the development in an area to determine whether or not a proposed project is appropriate with regard to community character, mass, and scale for a specific project in a specific area. Staff compiled information of the existing scale of the residences fronting Clement Avenue from the applicant, the appellants, Commission records, and City records (ZIMAS) in order to compare the proposed project to the neighborhood. See Table 1 below for a comparison of the sizes of the homes on Clement Avenue.

Table 1. Scale and Mass of 2300-2400 Clement Avenue on 3,600 sq. ft. lots.

Address	Stories	Height (Ft)	Building Area (sq. ft.)	C l e m e n t A v e	Address	Stories	Height (Ft)	Building Area (sq. ft.)
2313 Clement	2	23	1459			2314 Clement	2	30
2317 Clement	1	18	860		2318 Clement (NSI, 8/11/17)	2	25*	3004
2321 Clement	1	20	1082		2322 Clement	2	28	1874
2325 Clement	2	31	2781		2326 Clement	1	19	1074
2329 Clement	2	25*	3229		2330 Clement	1	18	914
2333 Clement	1	19	1224		2334 Clement	1	21	1076
2337 Clement	2	25*	3012		2338 Clement	1	24	1241
2341 Clement	1	22	1680		2342 Clement	2	25	2948
O l i v e A v e n u e								
Address	Stories	Height (Ft)	Building Area (sq. ft.)	C l e m e n t A v e	Address	Stories	Height (Ft)	Building Area (sq. ft.)
2405 Clement	1	17	864			2404 Clement	1	18
2409 Clement	1	17	860		2408 Clement	2	25	2089
2413 Clement	1	20	1347		2412 Clement (proposed)	2	25*	2960
2417 Clement	2	28	2506		2416 Clement	1	18	1153
2421 Clement	1	18	1306		2420 Clement	1	17	1130
2425 Clement	2	25*	2966		2424 Clement	2	25*	1958
2429 Clement	2	27	2455		2428 Clement-	1	14	832
2433 Clement	1	18	1099		2432 Clement-	1	15	968

*Height is roof height, not including roof access structures.

Clement Avenue is two blocks long. Of the 32 lots on Clement Avenue, 13 lots contain two-story structures and 18 contain one-story structures, not including the subject site. A majority of the homes in this area were built in the 1950s. Renovations occurred in late 1990s and early 2000s for some of the larger, 2-story homes. In addition, many of the residences, which the appellants contend the project should be consistent with, were built several decades ago and are typically much smaller than homes built by today’s standards. Homes built since the 1970s are usually much larger than the ones they replace. Heights of houses within this area range from 14 feet on 2428 Clement Ave to 30 feet on 2314 Clement Ave. Floor areas vary from 832 sq. ft. to 3229 sq. ft. The proposed project is a 25-foot high, two-story building with a stepped back second story and a floor area of approximately 3001 sq. ft. The range in size of the houses reinforces the eclectic character and “*varied style*” of the residences throughout Venice. In addition, homes within the Silver Triangle Neighborhood, the larger neighborhood of the proposed project, range from a floor area of 600 sq. ft. to 3200 sq. ft. and with a height range of 9 feet to 35 feet. Due to the prevailing heights, floor area, varied rooflines, and articulated frontages of buildings within 100 feet of the site and within the block, the project is compatible with the visual characteristics of the neighborhood. The City-approved house is no taller than many of the other residences on the block, and it is substantially set back from the street.

Two-story residences, which are common throughout Venice, are the overwhelming preference for permit applicants in the Southeast subarea of Venice, where one-story buildings are uneconomical to build and difficult to sell. Three-story buildings are generally too big to conform to the existing character and scale of the subarea. Also, certified LUP Policy I. E.3 states that, “*varied styles of architecture are encouraged...*” This policy encourages a variety of styles and discourages focus on subjective judgments about what architectural style is preferred. Instead, the Commission uses height limits and setback requirements to limit the size and scale of new structures so that they are compatible with the character with the surrounding area. In this case, the front yard setback is 17 feet, and the proposed structure is two-stories with a 25-foot high roofline, which is similar to several other houses on the street, and five feet under the maximum height limit. Therefore, the appellants’ contention does not raise a substantial issue of conformance with Chapter 3 Policies of the Coastal Act.

The appellants also contend that Policy I.E.2, related to scale, has not been addressed in the City findings, which failed to analyze the project’s compatibility with neighborhood character. Scale is described in the Venice certified-LUP as *bulk, height, buffer and setback*. Commission staff utilizes height and setbacks to limit building mass and scale in Venice. Bulk and buffer are less common as buildings usually contain various articulations which make it difficult to measure the cubic volume of a home. Also, the volume of a structure is not always a good metric to determine whether a building is visually compatible with the character of surrounding areas because some parts of buildings are not visible from surrounding areas.

Therefore, the City and the Commission staff are both guided by the certified LUP and past Commission actions which utilize height and setbacks as the most common methods for measuring compatibility. In addition, the Commission utilizes streetscape analyses, plans, project renderings and street-facing façades of surrounding structures to look for visual compatibility with neighborhood character. The proposed project maintains visual compatibility by not exceeding the height limit, stepping back the second story and articulating the front façade, according to City-approved plans ([Exhibit 2](#)). In addition, as mentioned in the City findings, the project maintains the street’s prevailing front yard setback of 17 feet, which is consistent with neighboring lots. The certified LUP does not mandate a specific length for each setback, but does require yards to be adequate “*to accommodate the need for fire safety, open space, permeable land area...and on-site recreation consistent with the existing scale and character of the community.*” For this particular lot, the City’s zoning code requires front yard setback of 20 percent of the lot depth (in this case, the lot depth is 90 feet), but no more than 20 feet, and not less than the prevailing setback. The City- approved project complies with the setback requirements of the City’s Municipal Code. This action by the City is not inconsistent with the certified LUP or with the Coastal Act, because the certified LUP does not mandate specific setback lengths. Furthermore, the City-approved project includes landscaped areas, exterior decks, and permeable yard area consistent with the California Green Building Code Standards observing water and energy conservation measures and providing personal individual on-site recreation opportunities for residents in both the front and back yards.

In addition, the appellants contend that the proposed project height is above the allowable limit of 25 feet for flat roofs. The proposed flat roof with the parapet is 25 feet tall to the top of the parapet, measured from the centerline of the street. Parapets are allowed as long as they do not exceed the height limit. The proposed roof access structure (RAS), which is allowed to exceed the flat roof height limit by up to ten feet, is 33.7 feet high, and it is set back approximately 44 feet from the

front property line in order to reduce its visual impact from the street. The LUP height limit policy states that *“the roof access structure shall be designed and oriented so as to reduce its visibility from adjacent public walkways and recreation areas”*. As mentioned in City findings, the RAS occurs towards the rear of the property and the roof deck is enclosed with a parapet and 42-inch high railing fronting Clement Avenue to reduce its visibility. The height observed from the street is 25 feet above the centerline of Clement Avenue. The proposed project also has a second story step back approximately 18.4 feet from the front property line while the first story is 17 feet from the front property line. The frontage of the home immediately north of the site is 25 feet high with a flat roofline and has a stepped-back second story. The frontage of the home approximately 88 feet south of the site is also 25 feet high with articulations and a flat roofline also observed from the street. Appellants are incorrect, therefore, in alleging that the proposed development will exceed the allowable limit of 25 feet for flat roofs; to the contrary, the proposal complies with the requirement because the roof is no higher than 25 feet, and the RAS is less than 10 additional feet in height.

Therefore, the appellants’ contentions do not raise a substantial issue because the City staff did not err in their analysis of the project’s compatibility with neighboring structures. The City correctly reviewed the proposed front yard setback and building height for compatibility with the scale of the surrounding development and visual impacts to pedestrians. The front yard setback is 17 feet. The proposed structure is two-stories and 25 feet high, which is similar to several other houses on the street. The City’s findings support the project’s compatibility with the character of the surrounding area utilizing Venice certified-LUP policies and are consistent with Chapter 3 of the Coastal Act.

Appellants also raise two recent hearings held by the Commission on community character, arguing the different determinations in the Marr Street and Clement Avenue decisions support the finding of a substantial issue in this case. The Commission’s substantial issues determination in Appeal Nos. A-5-VEN-17-0042 and A-5-VEN-17-0044 (Western Development, LLC- 676 &678 Marr Street, Venice) in October 2017 was based on the fact that the proposed project was taller than the surrounding residences on the block, had a three-story vertical frontage to the roof of the building with no second-story step back, and a minimal front yard setback from Marr Street, giving an impression of a relatively disproportionate height, mass, and façade that were incompatible with existing surrounding single-family residences. The Marr Street determination is different than the City-approved project at 2412 Clement Avenue because this project maintains the prevailing setback and has an articulated frontage with a second-story step back, consistent with other two-story homes in the block. In this case, the City has rightfully analyzed the project to be visually compatible with the surrounding single-family residences on the block.

This project is very similar to the Commission’s no substantial issue determination on August 11, 2017 for 2318 Clement Ave, Venice (Appeal No. A-5-VEN-17-0036 (Messori)), in which the City approved a local development permit for the “construction of a two-story, 25-foot high, 3,004 sq. ft. single-family residence with an attached 388 sq. ft. two-car garage, a 620 sq. ft. roof deck, and approximately 32-foot high, 96 sq. ft. roof access structure.” The currently proposed project is very similar to the mass, scale and character of the Messori project at 2318 Clement Avenue, which is about 400 feet south of the project site. The Commission’s findings in the Messori appeal show that the height, building square footage, and setback are compatible with the one to two-story homes which characterize the neighborhood on Clement Avenue and Southeast Venice subarea. Again,

these projects are analyzed on a case-by-case basis. Similar to the Messori case, the City properly analyzed the proposed project for conformity with existing residences in the community.

In addition to character, mass, and scale, the appellants make other assertions. The appellants contend that the project will prejudice the City's ability to prepare a certified LCP. As previously discussed, the City-approved project is consistent with the development standards of the certified LUP. As such, there is no conflict between the City-approved project and the development standards of the certified LUP and thus no substantial issue is raised with regard to the City's ability to approve a certified LCP. The appellants further contend that utilizing the rear yard as a parking space precludes the area to be used for open space and on-site recreation as required in LUP Policy I.A.3. However, as mentioned in the City findings, three parking spaces are required pursuant to Policy II.A.3 on lots with widths larger or equal to 35 feet. It is not uncommon to provide a part of the rear yard as a third uncovered parking space and the rear yard can be utilized for multiple purposes such as on-site recreation and a third parking space when needed. The provision of the third parking space is similar to other homes within the block which provide tandem parking in the rear yard and provides relief to the general lack of on-street parking in Venice.

Therefore, the grounds on which the appellants' assertions are made raise no substantial issue and the City's approval is consistent with the Venice certified-LUP and Chapter 3 Policies of the Coastal Act.

Applying the five factors listed in the prior section clarifies that the appeal raises "no substantial issue", and therefore, does meet the standard for No Substantial Issue of Section 30625(a).

The first factor is the degree of factual and legal support for the local government's decision that the development is consistent with the relevant provisions of the Coastal Act. As discussed above, the project complies with applicable height, land use, and density limits and setbacks and is comparable to houses in the area, as well as to other Venice projects recently approved by the Commission. As explained in the City's approval of the project, the relevant legal requirements, including Coastal Act Sections 30250, 30251, and 30253(e), the Venice certified-LUP, the Venice Specific Plan, the Los Angeles Municipal Code, and the Venice Community Plan, were all met in this case, providing ample support for the City's decision. The City's decision also is well-supported by evidence reviewed by the City, including City-approved plans, a streetscape analysis, and records of past Commission and City actions supporting the City's findings as to the project's visual compatibility with the surrounding area. In short, there is substantial factual and legal support for the City's determination that the project complies with the policies of Coastal Act Chapter 3, and this factor weighs in favor of finding No Substantial Issue.

The second factor is the extent and scope of the development as approved by the local government. As explained above, the extent and scope of the City-approved project—construction of a two-story single family home—is not extensive. Rather, the proposed development is consistent with all relevant legal limits on size, height and land use, is on par with residential developments in the area and, thus, preserves community character as required by the Coastal Act. The second factor weighs in favor of finding No Substantial Issue.

The third factor is the significance of the coastal resources affected by the decisions. The mass, scale, and character of the community are significant coastal resources to be protected. However, the proposed project's mass and scale is compatible with the character of the surrounding community within the Southeast Venice subarea, as explained above, and therefore causes no significant impacts to coastal resources. The third factor weighs in favor of finding No Substantial Issue.

The fourth factor is the precedential value of the local government's decisions for future interpretations of its LCP. The City does not currently have a certified LCP, but it does have a certified Land Use Plan (LUP). The approval of the proposed two-story single-family residence will not set a new precedent, since there have been several City and Coastal Commission actions approving similar-sized development that precede this decision. This project, as proposed, will not prejudice the ability of the City to prepare a Local Coastal Program that is in conformity with Chapter 3 of the Coastal Act. The fourth factor, thus, weighs in favor of finding No Substantial Issue.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. Because Venice is a popular visitor destination, the character of the community is a matter of statewide significance. However, this appeal does not raise any significant local, regional or statewide issues because the project is visually compatible with the surrounding community whose eclectic and diverse architecture makes Venice a popular coastal destination. This project complies with all local requirements and state policies in which the City properly reviewed this project prior to issuing the coastal development permit and properly applied the relevant policies. In this case, the City properly issued a local CDP, and the City's approval does not raise issues of statewide significance because the interpretation and application of Coastal Act policies were properly utilized.

On balance, and for the reasons stated above, the five factors weigh in favor of finding No Substantial Issue with respect to Appeal No. A-5-VEN-17-0072. Although the Venice area where the project is proposed is a special community and popular destination for visitors, the project itself is small (involving construction of one single-family residence), is consistent with all applicable requirements for height, size, and land use, and is on par with other residential developments in the area. The appeal, therefore, raises no substantial issues as to the project's compliance with Sections 30250, 30251 and 30253(e) of the Coastal Act and the development policies in the Venice certified-LUP.

Appendix A - Substantive File Documents

- 1) Appeal of Local Coastal Development Permit A-5-VEN-17-0036 (Messori: 2318 Clement Ave, Venice), 8/11/2017
- 2) Appeals of Local Coastal Development Permits A-5-VEN-17-0042 & A-5-VEN-17-0044 (Western Development, LLC: 676 & 678 Marr Street, Venice), 10/12/2017